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## LEGISLATIVE NOTES AND REVIEWS

EDITED BY WALTER F. DODD

**Administrative Reorganization in Maryland.** In 1916, with the adoption of the budget amendment to the constitution, Maryland made a long stride forward in the direction of better state government. That amendment provides that the governor shall formulate the budget and present it to the legislature. He, or any officer designated by him, may appear on the floor of the legislature to discuss and defend his estimates.

The power of the legislature over the proposed financial program is materially reduced. Generally speaking, it can only reduce or strike out items. It may not insert new items. Nor may it increase items except those relating to the legislature itself and those relating to the judiciary. The "Budget Bill" becomes law immediately upon its passage without any further action by the governor. The legislature may, however, pass "Supplementary Appropriation Bills." But they may not be considered before the budget has been finally acted upon by both houses. They are, further, subject to the following limitations: every such bill must be confined to a single work, object or purpose; each bill must make provision for the revenue necessary to pay the appropriation and shall direct how the tax to raise it shall be levied and collected; in each instance it will require a majority vote of the whole number of members of each house—the vote on final passage to be recorded by yeas and nays; and, finally, all such bills are subject to the governor's veto power. It should be added that, if the budget has not been finally acted upon by the legislature three days before the expiration of regular session, the governor shall by proclamation extend the session for such further period as will in his judgment be necessary for the final disposition of it. During this period the legislature may not consider anything but the budget, except the expenses necessary in connection with the lengthening of the session.

While it can be said, therefore, that Maryland has gone further than any other state in strengthening the position of the governor's budget powers in relation to the legislature, something else was obviously necessary. In order to enable the governor to present to the legislature

a well matured program for which he could accept a reasonable degree of responsibility, it was necessary to introduce his influence earlier in the process of budget-making. The administrative officials, not appointed by the governor nor responsible to him except in a nominal way, can not be expected to give the scrutiny to, nor exercise the restraint in, the formulation of the estimates so highly necessary to the budget-making authority.

An attempt has been made to meet this necessity, as well as to improve the general efficiency of the state government, by the administrative reorganization provided for by Chapter 29 of the Acts of the General Assembly of this year. The session of 1920 appropriated a sum of money to enable the governor to make a survey of the entire administration. He engaged the services of the firm of Griffenhagen and Associates of Chicago, who submitted their report to him in April of 1921. While disregarded to an extent, this report and the accompanying recommendations have served very largely as the foundation for the reorganization completed this year.

The organization of the administrative system of Maryland was no better and no worse than those found in most of the states of the Union. Article II of the constitution apparently contemplates that the governor should be a real chief executive. The first section provides that "the executive power of the State shall be vested in a Governor," and section 9 that "he shall take care that the laws are faithfully executed." But, like the constitutions of other states, it proceeds to distribute the executive power among several important state officers—though it is true our constitution does not go so far as do the constitutions of many states in this respect. It creates three important state officers, the attorney general, the comptroller, and the treasurer. Both of the latter compose the treasury department. The comptroller is elected by the people and the treasurer, by the two houses of the legislature—both for two-year terms. The attorney general is elected by the people for a four-year term. In addition, the constitution creates four less important officials, whose duties are practically entirely statutory. They are, the secretary of state, the adjutant general, the state librarian, and the commissioner of the land office. All are appointed by the governor subject to confirmation by the senate.

The legislature has supplemented these administrative officers by a host of officers, boards, and commissions, so that at the time of reorganization there were in all seventy-seven separate and distinct administrative agencies in the state government exclusive of the governor.

This has been done, generally speaking, without any consistent policy of coördination or interrelation. The system shows the evidence of every passing fashion in administrative organization. The constitution was adopted in 1867, that is, before the board form of organization had gained all but universal sway. The offices created by it are, therefore, with one exception, headed by single officials. The creations of the legislature have, on the other hand, been very largely of the board or commission type. Of late, however, the pendulum has swung somewhat in the other direction, and many of the recent creations have been of the single-head type.

It may be of interest to summarize briefly the system as it existed prior to the reorganization. There were in all, as has been said, seventy-seven separate, independent, and uncoördinated state administrative agencies—and with few exceptions these same agencies still exist, grouped into appropriate departments. Of these seven were headed by a single executive. Six were appointed by the governor alone. Most of them are very unimportant, such as, the weigher of tomatoes, the measurer of woodcarts, the inspector of hay and straw. Five generally more important officers were appointed by the governor and senate. Two, the comptroller and the attorney general, elected by the people. One, the treasurer, elected by the legislature. The board of public works (the governor, the comptroller, and the treasurer) appointed the auditor, the bank commissioner, and the insurance commissioner. The terms of these officials range generally from two to four years, the terms of the commissioner of motor vehicles and the state employment commissioner, however, being for three and six years respectively. All, except two, are salaried officers; the exceptions being the measurer of woodcarts and the inspector of hay and straw, who subsist on fees.

Of the sixty boards and commissions it is harder to speak without confusion. In membership they run all the way from two to thirty. One, the war records commission, has as high as 370 members. The most frequent number is three and five. The terms of service vary from two to nine years, while thirteen boards have an indefinite term. In the case of twenty-two boards and commissions, the terms of the members overlap. This is particularly true in case of the longer terms, six years and above. Thirty-three boards are non-salaried. The members of sixteen receive a *per diem* for their services. None are paid in fees.

As to manner of appointment, equally great variety is found. Seven were composed entirely of members serving *ex officio*. Of thirteen

others the membership was *ex officio* in part. The governor was a member of eleven boards and commissions. He alone appointed the members of twenty-four. Ten others were appointed by the governor and the senate. In four cases the governor was confined to the appointment of nominees presented by certain professional societies. Finally, in three cases the appointments were made entirely by private parties or organizations.

Very little attempt had been made before the present reorganization to group together similar or related services. Thus, the state board of labor statistics and the state industrial accidents commission were wholly separate and unrelated. So were the eighteen distinct boards for examining and licensing various trades, vocations, and professions. Ten separate and distinct agencies existed for the service or regulation of private business enterprise.

The survey disclosed many interesting things. Several state agencies were practically non-existent. This was true of the weigher of tomatoes, the measurer of woodcarts, the inspector of hay and straw, and the state agricultural lime board. In several instances no means of control existed. The state tobacco inspector, the board of electrical examiners, and various medical examining boards, were not required to make any reports. The various vocational and professional examining and licensing boards had no regular offices and no employees, and their records were in very deplorable shape.

The removal power of the governor of Maryland is extensive, and through this means he may exercise very strong influence upon the conduct of administration. In a comparatively small number of cases he can remove at pleasure. Under section 15 of article II of the constitution he can remove for cause and after a hearing any civil officer appointed by him alone or in conjunction with the senate. The constitution designates incompetence or misconduct as causes for removal. The greatest single need of the situation, as it existed, was the lack of central control by the governor. It was a physical impossibility for him alone to supervise the functions of seventy-seven different agencies without the aid of intermediate supervising functionaries responsible to him. In many cases information that anything was wrong has not come to him until it has become a matter of common knowledge.

The Griffenhagen report recommended the establishment of eleven departments as follows: executive, finance, law, militia, welfare, health, education, public works, commerce, labor, employment and registration,

and an independent office of the comptroller. Each department was to be headed by a director, appointed by the governor and removable by him at pleasure. The eleven department directors were to constitute a governor's cabinet. Internally the departments would be organized with an administrative office for all the routine and clerical work of the department. The governmental services or functions would be grouped into bureaus, each headed by a permanent official serving under the merit system and called a bureau chief or assistant director. There would, in addition, be organized in connection with most of the departments a system of one or more non-paid advisory councils. The comptroller's office would be independent of the general administrative system. He would be elected by the legislature and be responsible to it.

To put this plan into effect would have required three constitutional amendments, affecting the offices of the attorney general, the comptroller, and the treasurer, respectively.

Soon after Governor Ritchie had received the report of Griffenhagen and Associates he appointed a large committee of representative men and women of the Democratic party to consider it and make recommendations to him. This "State Reorganization Committee" authorized its chairman, Judge N. Charles Burke, to appoint an executive committee of twenty-one members to do the actual work on the plan. Eventually the work fell to a small sub-committee of the executive committee under the leadership of Judge Burke and in close coöperation with Governor Ritchie. In fact the governor, himself, did a great deal of the work. The sub-committee made an independent study of the state government and in their final report evolved a plan in many respects quite different from the Griffenhagen plan.

It seems quite certain that, while as compared with the experts' plan the Maryland plan falls short in many ways, the submission of the question to a large body of men and women of the governor's own party was a wise move. It consolidated party opinion behind the governor and eventually led to the endorsement of his reorganization plan by the state convention of the party. And when after a successful election on the issue the politicians tried to balk, they found the governor immovable with a solid public opinion behind him.

Prior to the meeting of the legislature Governor Ritchie, with the coöperation of a few able lawyers, drafted the plan in the form of a bill, being ready to have it introduced at about the beginning of the session of the legislature. After the usual routine study, and after encountering some opposition from the "machine," already referred to, the plan was

finally adopted, having been passed by the senate on the twentieth of February and passed by the house under suspension of the rules on the following day.

The final plan as adopted provides for the following departments:

I. *The Executive Department.* This department will be under the direct supervision and control of the governor. It will be composed of the following offices: secretary of state, parole commissioner, commissioner of the land office, superintendent of public buildings and grounds, department of legislative reference, commissioners of uniform state laws, state librarian.

II. *The Finance Department.* This department comprises the treasury department as created by the constitution, headed by the comptroller and the treasurer. As a matter of fact the comptroller is the real head, the duties of the treasurer being confined practically to the division of deposits and disbursements. The comptroller is the head of the division of financial review and control. The finance department is organized as follows: Division of Financial Review and Control, comptroller, auditor, bank commissioner, state insurance department, state tax commission, central purchasing bureau, Division of Deposits and Disbursements, Board of Public Works, composed of the governor, comptroller, and the treasurer.

III. *Department of Law*, under the direction and control of the attorney general.

IV. *Department of Education*, under the direction and control of the state board of education, a body of seven members appointed by the governor. It comprises the following agencies: state superintendent of schools, the Maryland public library advisory commission, the Maryland school for the deaf, the Maryland industrial training school.

V. *The State Board of Agriculture and the Regents of the University of Maryland.* This department is composed of the following: The University of Maryland, the state forester, state geological and economic survey.

VI. *The Department of Militia.* This department is under the direction and control of the adjutant general.

VII. *The Department of Welfare.* This department is under the direction and control of the board of welfare, which is a non-salaried body appointed by the governor and the senate. It comprises the following: the various correctional institutions under the direct control of the director of welfare and the board of welfare of which he is chairman: the state reformatories, the house of correction, the state penitentiary.

The various institutions for the feeble-minded and the insane under the direction and control of the board of mental hygiene and the commissioner of mental hygiene: the Spring Grove state hospital, the Springfield state hospital, the Crownsville state hospital, the Rosewood state training school, the Eastern Shore state hospital.

VIII. *The Department of Charities.* This department is governed by a non-salaried board of seven members appointed by the governor, who is a member *ex officio*. The chairman of the board is called the director of charities. In addition to these functions, the following institutions are allocated to this department: the Maryland tuberculosis sanatorium, the Pine Bluff sanatorium.

IX. *The Department of Health.* This department is governed by a board of eight members appointed by the governor. All are non-salaried except the chairman, who is known as the director of health.

X. *The Department of Public Works.* This department is governed by the state roads commission. This commission is appointed by the governor alone and may be removed by him at pleasure. It is composed of three members, non-salaried except the chairman, who is known as the director of the department. Its duties are confined to the construction and upkeep of the road system of the state.

XI. *The Commissioner of Motor Vehicles.* Besides the enforcement of the state laws relating to the titling, registration and licensing of motor vehicles and the licensing of operators, this department also has charge of the newly organized state police force.

XII. *The Conservation Department.* This department is headed by a conservation commissioner, whose duty it is to administer the state laws with reference to fish, game, and fur-bearing animals.

XIII. *The Department of Public Utilities:* public service commission of three members appointed by the governor; the people's counsel.

XIV. *The Department of State Employment and Registration.* This department is under the direction of state employment commissioner. It has charge of the administration of the merit system. In addition, eighteen examining and licensing boards are allocated to this department. But they are subject to control by, and must make their report to, the board of public works in the finance department.

There are, in addition, three unimportant state agencies which have not been allocated to any department. They are, the inspector of tobacco, the Maryland state board of censors, and the Maryland racing commission.

Finally, the act provides that the following officials shall constitute the governor's cabinet: the comptroller, treasurer, attorney general,

chairman of the state board of education, president of the state board of agriculture and of the University of Maryland, director of welfare, director of charities, director of health, director of public works, commissioner of motor vehicles, police commissioner of Baltimore city, conservation commissioner, and the commissioner of state employment and registration.

NIELS H. DEBEL.

*Goucher College.*

**Federal and State Power Commissions.** The increasing importance of the states as coöperative administrative agents of the nation has been illustrated during the past two years by the relationship which has developed between the federal power commission and the water power agencies of various states.<sup>1</sup>

The federal power commission, which is an independent national agency composed of the secretaries of war, interior, and agriculture, was created by the Federal Water Power Act of June 10, 1920 (41 Stat. L., 1063), to exercise general administrative control over all water power sites and water power establishments that are located on the navigable waters, the public lands, and on the reservations of the United States.

To accomplish this function, the commission is required to coöperate with the state governments in making investigations of water resources and in publishing the results thereof. This coöperation may also relate to the permits and licenses which the federal power commission is required to issue for the purpose of authorizing the construction of dams, reservoirs, conduits, power houses, transmission lines and kindred projects.

Many states had administered their water power affairs through commissions and other agencies prior to the creation of the national agency, and since that time several of the state commissions have taken direct steps to coöperate with the federal power commission.<sup>2</sup>

The enactment of the Federal Water Power law was immediately followed by coöperative acts on the part of private organizations, state

<sup>1</sup> For other examples of federal and state coöperation see Holcombe, A. N., *The States as Agents of the Nation*, in *Southwestern Political Science Quarterly*, Vol. 1 (March, 1921), pp. 307-327.

<sup>2</sup> The legal and historical phases of state control of water power prior to 1911 is treated by Fairlie, J. A., *Public Regulation of Water Power in the United States and Europe*, in *Michigan Law Review*, Vol. 9, No. 6 (April, 1911), pp. 463-483.